

**REMARKS**

Favorable reconsideration and allowance of the subject application are respectfully requested. Claims 1-6 are pending in the present application, with claims 1 and 5 being independent. Claims 5-6 have been added by this amendment, which do not add any new subject matter.

**Interview Summary**

Applicants representative would like to thank the Examiner John Shew, and the Examiner's supervisor, Ajit Patel, for the interview that was conducted on February 23, 2004. During the interview Applicants discussed that claim objections and claim rejection under 35 U.S.C. §112, first and second paragraph, were improper. The Examiner agreed and stated that the claim objections and 35 U.S.C. §112 rejection would be withdrawn.

Applicants also explained that Sindhushayana et al. (US 6,064,678) does not teach or suggest the features of the claims, because Sindhushayana et al. is directed to CDMA/TDMA technology, which is not a bi-directional radio channel (e.g., shortwave), and therefore, the data of Sindhushayana et al. is not divided according to a second data transmission protocol into individual data packets, which are transmitted alternately forward and in

reverse over the radio channel by the simplex method, as recited in independent claim 1. The Examiner stated that the rejections would be reconsidered upon receipt of a formal response.

***Claim Objections and Rejections under 35 U.S.C. §112***

The Examiner objected to claim 1 alleging that the claim contains subject matter that was not described in the specification in such a way as to enable one skilled in the art to which it pertains to make and/or use the invention. Specifically, the Examiner states that claim 1 fails to disclose the exact specifications upon which the 1<sup>st</sup> data transmission protocol and the second data transmission protocol are based.

The Examiner also rejected claims 1 under 35 U.S.C. §112, first and second paragraphs. This rejection is respectfully traversed.

As stated above, the Examiner agreed during the interview that the claim objection and rejection under 35 U.S.C. §112 would be withdrawn.

Applicants have, however, irrespective of the claim objections and rejections, amended claims 1-4 in an effort to place the claims into proper form for U.S. patent practice. These amendments do not narrow the scope of the claims, nor have they been made to overcome

any prior art.

***Claim Rejections under 35 U.S.C. §103***

The Examiner rejected claims 1-4 under 35 U.S.C. §103(a) as being unpatentable over *Sindhushayana et al.* (US 6,064,678) in view of *Bishop et al.* (US 4,914,653); This rejection is respectfully traversed insofar as it pertains to the presently pending claims at least for the foregoing reasons.

Independent claim 1 is directed to a method of transmitting data over a bidirectional radio channel. The method includes the steps of: dividing digital data that is to be transmitted into individual data packets according to a first data transmission protocol; dividing, at a transmitting station of the bidirectional radio channel, the data according to a second data transmission protocol into individual data packets; and transmitting the individual data packets alternately forward and in reverse between transmitting and receiving stations over the radio channel by the simplex method. At each transmitting and receiving station a number, a length, a priority, and/or a type of the individual data packets generated by the first data transmission protocol is determined as a data packet identifier. The length of the data packets generated by the second data transmission protocol is

determined in at least one of the transmitting and receiving stations as a function of these data packet identifiers for optimum utilization of radio channel capacity.

In rejecting independent claim 1, the Examiner alleges that *Sindhushayana et al.* in combination with *Bishop et al.* teaches the features of independent claim 1. Applicants respectfully submit that neither *Sindhushayana et al.* nor *Bishop et al.* teaches or suggest at least that digital data is divided on the basis of a first and second data transmission protocol into individual data packets and then transmitted alternately forward and in reverse between transmitting and receiving stations over a radio channel by the simplex method.

*Sindhushayana et al.* is directed to a method for assigning optimal packet lengths in a variable rate communication system, e.g., in a CDMA/TDMA system. *Bishop et al.* is directed to protocols for interprocessor communications.

Applicants respectfully submit that one skilled in the art would not look toward either *Sindhushayana et al.* nor *Bishop et al.* in order to show a teaching for a method of transmitting data in individual data packets over a bi-directional radio channel, e.g. shortwave (see page 1, line 5, of the present application), via the simplex method, e.g., fixed data rate as is well known and commonly

understood in the art.

Therefore, one skilled in the art would not look towards *Sindhushayana et al.* nor *Bishop et al.* in order to teach the features of independent claim 1. As such, the Examiner failed to substantiate a *prima facie* case of obviousness.

Furthermore, one skilled in the art would not combine *Sindhushayana et al.* with *Bishop et al.* because they are non-analogous art and therefore, the alleged combination of *Sindhushayana et al.* and *Bishop et al.* is improper.

"In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned."<sup>1</sup> Furthermore, MPEP 2141.01(a) states that PTO classification is some evidence of "nonanalogy" or "analogy". See, for example, *Wang Laboratories, Inc. v. Toshiba Corp.*, 993 F.2d 858, 26 USPQ2d 1767 (Fed. Cir. 1993) (Patent claims were directed to single in-line memory modules (SIMMs) for installation on a printed circuit motherboard for use in personal computers. Reference to a SIMM for an industrial controller was not necessarily in the same field of endeavor as the claimed subject matter merely because it related to

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<sup>1</sup> see *In re Oetiker*, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992).

memories. Reference was found to be in a different field of endeavor because it involved memory circuits in which modules of varying sizes may be added or replaced, whereas the claimed invention involved compact modular memories).

*Sindhushayana et al.* has a U.S. classification of 370/470.

*Bishop et al.* has U.S. classification of 370/85.6. Therefore, because *Bishop et al.* and *Sindhushayana et al.* are not in the field of Applicant's endeavor nor is it reasonably pertinent to the particular problem with which the inventor was concerned, Applicants respectfully submit that one skilled in the art would not look towards *Bishop et al.* to make up for the deficiencies of *Sindhushayana et al.*

Accordingly, in view of the above discussion, Applicant respectfully requests that the Examiner withdraw the rejection.

Dependent claims 2-4 should be considered allowable at least for depending from an allowable base claim.

New claims 5-6 should be considered allowable at least because the cited art fails to teach or suggest at least a first transmitting/receiving station for transmitting and receiving data packets to and from a second transmitting/receiving station via a shortwave radio channel having a fixed data rate.

***Conclusion***

In view of the above amendments and remarks, this application appears to be in condition for allowance and the Examiner is, therefore, requested to reexamine the application and pass the claims to issue.

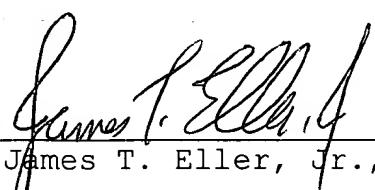
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Martin R. Geissler (Reg. 51,011) at telephone number (703) 205-8000, which is located in the Washington, DC area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By

  
James T. Eller, Jr., #39,538

P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000

JTE/MRG:tm/lab  
4100-0117P